

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42057

PUBLIC SERVICE COMPANY OF COLORADO D/B/A XCEL ENERGY
v.
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

Decided: April 20, 2001

On December 20, 2000, the Public Service Company of Colorado d/b/a Xcel Energy, Inc. (Xcel) filed a complaint against The Burlington Northern and Santa Fe Railway Company (BNSF), alleging that the rates to be assessed by BNSF on Xcel's movements of coal from origins in the Powder River Basin of Wyoming to Xcel's Pawnee Steam Electric Generating Station near Brush, CO, will exceed a maximum reasonable level. A decision that included both a protective order and a procedural schedule was served on January 29, 2001.

On February 8, 2001, Xcel filed a motion to compel BNSF to produce documents requested during discovery. BNSF replied on February 28, 2001. Xcel filed a motion for the extension of the procedural schedule on March 27, 2001. Along with the extension request, Xcel filed a petition for an order establishing procedures for a study to measure movement-specific locomotive fuel consumption.¹

BNSF filed a motion to compel document production and a response to its first set of interrogatories on April 2, 2001. The current due date for Xcel's reply to this motion is April 23, 2001. By letter filed on April 17, 2001, counsel for Xcel requests a one-week extension of time from April 23, 2001, until April 30, 2001, to file a reply. Counsel states that the additional time is needed for the parties to continue discussions on the issues raised in BNSF's motion to compel. Counsel states that the request for an extension of time is made with the knowledge and consent of counsel for BNSF. The request is reasonable. Accordingly, the extension request will be granted.

¹ In a letter received on April 12, 2001, counsel for BNSF, with the knowledge and consent of counsel for Xcel, states that the parties have agreed to extend the April 16, 2001 due date of BNSF's responses to Xcel's motion for an extension of the procedural schedule and petition for an order establishing procedures for a study to measure movement-specific locomotive fuel consumption. Counsel states that the new due date for BNSF's responses is April 30, 2001. The letter requests that the Board refrain from ruling on Xcel's motion for an extension of the procedural schedule or its petition, as discussions between the parties are ongoing and may resolve many of the issues addressed in those pleadings.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Xcel's request for an extension of time to file a reply to BNSF's motion to compel is granted.
2. Xcel's reply is due April 30, 2001.
3. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary